THE HONOURABLE SRI JUSTICE V.ESWARAIAH

W.P. No. 23941 of 2007

Date:13-11-2007

Between:

Chukkapally Ramaiah

…Petitioner

AND

The District Collector, Kadapa and another

..

Respondents

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ORDER:

The petitioner-Chukkapalli Ramaiah of Gunthapalli village represented by his GPA holder K.Narsimhulu Naidu seeks a writ of mandamus to declare the action of the respondents particularly the second respondent in not granting assignment of
Ac.1.00 guntas of land in Sy.No.948 of Gunthapalli village in Gopavaram mandal of Kadapa District as per his representation dated 17.11.2006, though he is entitled for assignment, as illegal and arbitrary and against B.S.O.No.15 para 10(2) and consequently to direct the respondents to assign the said land.

It is the case of the petitioner that pursuant to the report submitted by the Revenue Inspector, Badvel on 01.11.1973 stating that the petitioner is in possession of the said land, the Tahsildar, Badvel issued possession certificate expressing no objection for construction of poultry farm in the said site. It is not known as to whether the petitioner has constructed the poultry shed or not and it is also not known during which period he has run the said poultry farm. But, it is stated by the petitioner that he got filed a representation on 17.11.2006 through his lawyer stating that the petitioner has developed the said land and constructed four rooms and running the poultry farm and the petitioner went to Kuwait to eke out his livelihood and willing to come back to India within a short period in order to run poultry in the schedule mentioned land as usual. Accordingly, a request has been made to fix the market value of the said land under G.O.Ms.No.508, dated 20.10.1995 as per the rules in force.

But, whereas the prayer in the writ petition is for the assignment of the said land as per B.S.O.No.15, paragraph 10(2). As per

B.S.O.No.15, paragraph 10(2) among landless poor applicants, preference shall be given to the person who owns no land at all. As between a Sivoijamadar and non-sivoijamadar who has been in continuous occupation of the land as defined in paragraph 3 (2) (iii) will get preference. It is stated that the petitioner is a Sivoijamadar and therefore, he is entitled for preferential consideration for the assignment of the land.

Admittedly, the petitioner is not residing in India and he is residing in Kuwait and therefore, it is doubtful whether he is a landless poor or not. However, the application filed through his counsel is for the alienation of the land fixing the market value as per the G.O.Ms.No.508, dated 20.10.1995. But, whereas the prayer in the writ petition is assignment of the land which may not be considered. Landless poor are entitled for assignment of the land, if they are really poor. Even though a person is not having any land, he need not be a landless poor.

Having regard to the facts of the case, I am of the opinion that the writ petition is misconceived and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

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V.ESWARAIAH, J.

Date:13.11.2007
ccm